



## REPORT TO THE HEARING OFFICER

HEARING DATE: December 1, 2004  
(Continued from October 13, 2004)

REPORT NO. HO-04-152

ATTENTION: Hearing Officer

SUBJECT: SPERRY RESIDENCE  
PROJECT NUMBER: 11665

LOCATION: South side of the east terminus of Angosto Way

APPLICANT: William and Nancy Sperry

### SUMMARY

Requested Action - Should the Hearing Officer approve Site Development Permit No. 23113 for the construction of a 4,918 square-foot single-family residence and Variance 149636 to allow five-foot retaining walls within the 25-foot front setback area?

### Staff Recommendation -

1. CERTIFY Mitigated Negative Declaration No. 11665 and ADOPT Mitigation, Monitoring, and Reporting Program and
2. APPROVE Site Development Permit No. 23113 and Variance 149636

Community Planning Group Recommendation – The Rancho Bernardo Community Planning Board recommended approval of the project on November 18, 2004, by a vote of 14-0-0. The recommendation is conditional on the requirement that the residents “return for additional Board approval if there is an expansion into the proposed development area, or if there is additional intrusion into the designated sensitive area.”

Environmental Review - Mitigated Negative Declaration No. 11665, dated October 13, 2005, has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) Guidelines. A Mitigation, Monitoring, and Reporting Program has been prepared and will be implemented, which will reduce, to a level of insignificance, any potential impacts identified in the environmental review process.

## BACKGROUND

This project is for a Site Development Permit and Variance for the construction of a two-level 4,918 square-foot single-family residence on a 1.2-acre lot. The Variance is to allow five-foot high retaining walls to line and support both sides of the driveway. The project site is located on the south side of the east terminus of Angosto Way, in the northern part of the Rancho Bernardo Community Planning Area. The site is east of Interstate 15 in the AR-1-2 (Agricultural-Residential) zone, and designated as Very Low Residential by the Community Plan. The project site contains steep hillsides and sensitive biological resources, as defined by the Environmentally Sensitive Lands (ESL) Regulations, San Diego Municipal Code (SDMC) Section 143.0110. The lot frontage is approximately 145 feet in length and it partially extends into the cul-de-sac; the side property lines extend approximately 260 feet and 295 feet to the rear of the property. The steepness of the lot is fairly consistent throughout. Mean sea level (MSL) elevations range from a high of 542 feet at the southwest corner of the property, to a low of 451 feet at the northeast corner of the property (at the cul-de-sac) – a corner-to-corner distance of approximately 270 feet, and an elevation differential of 91 feet.

## DISCUSSION

A Process Three (SDMC §112.0505) Site Development Permit (SDP) is required for this project pursuant to the Environmentally Sensitive Land (ESL) Regulations (SDMC §143.0110). The purpose of the ESL Regulations is to “protect, preserve, and, where damaged restore the environmentally sensitive lands of San Diego and the viability of the species supported by those lands.” As such, the proposed project is required to comply with General Development Regulations for all ESLs (SDMC §143.0140), the Development Regulations for Sensitive Biological Resources Section (SDMC §143.0141), and Development Regulations for Steep Hillsides (SDMC §143.0142). The Site Development Permit review process would determine the project’s compliance with the provisions of the ESL regulations.

The Development Regulations for Steep Hillsides (SDMC §143.0142) require development to be consistent with the Land Development Manual’s Steep Hillside Guidelines. Pursuant to the Guidelines, the proposed building is located at the least sloped area, approximately 25 feet from front property line, and the length of the building would approximately follow the slope line. The development is approximately limited to the front third of the property. The remainder undeveloped portion of the project sited would be preserved as a recorded open space easement.

Retaining walls are incorporated into the site design to minimize grading and to support the driveway at the slope, angle, and width required for safety purposes. Approximately 12,600 square feet (14 percent of the site) is proposed for grading. Approximately 470 lineal feet of retaining walls are proposed. Retaining walls line most of the driveway’s edges. Most of the downhill side of the driveway is supported by two five-foot retaining walls separated by an approximately 10-foot wide step. Extensive use of shrubs and vines would screen the retaining walls facing Angosto Way (Attachment 6). Most of the remaining retaining walls are located behind the proposed residence. A small retaining wall and pilaster, and a sliding gate are proposed on the public right-of-way and are subject to the review and approval of the City

Engineer. Permit Condition Number 19, requires that the applicant obtain an Encroachment Maintenance and Removal Agreement for these structures.

A Variance is proposed to allow the five-foot retaining walls in the front yard setback area. Structures, including retaining walls, are limited to three feet in height in this area (SDMC §142.0310.3.A). Variances provide relief for projects “in which, because of special circumstances applicable to the property including size, shape, topography, location, or surroundings, the strict application of the development regulations would deprive the property of privileges enjoyed by property in the vicinity and under the same land use designation and use.” Almost the entire length of the stepped retaining walls on the downhill side of the driveway are five feet in height, and are located within the front yard setback area. A small portion of the retaining wall on the uphill side of the driveway is also five-feet in height. This retaining wall is also located in the front setback area.

Staff believes a Variance is justified in this circumstance. The neighborhood is characterized by large custom single-family residential homes constructed on lots of at least one acre in size that contain steep natural slopes. Each lot, including the project site, is unique in shape, size, steepness, and in the direction of the slope. The driveway entrance is perpendicular to Angosto Way. It quickly turns sharply to follow the slope line to the garage entrance. The five-foot retaining walls located within the front yard setback area are needed to support the driveway at the slope, angle, and width required for safety purposes, and would minimize the amount of grading required to provide vehicular access to the property. These retaining walls within the front setback area are a reasonable solution for the construction constraints presented by the steep slopes. Strict application of the code would make it extremely difficult to provide vehicular access to the property.

The development would impact 0.10 acre coast live oak woodland, 0.02 acre of coastal sage scrub, and 0.27 acre of non-native grassland, for a total of 0.39 impacted acres. The City’s Biological Resource Guidelines identifies the appropriate mitigation acres for these impacts to be 0.24, 0.13, and 0.14 acres, respectively, for a total of 0.26 mitigation acres. The applicant is required to either pay the necessary cost of 0.26 acre of upland habitat into the City’s Habitat Acquisition Fund, or acquire 0.26 acres of the upland habitat within the City of San Diego Multiple Habitat Preservation Area (MHPA). In addition, 0.61 acres of undeveloped portion of the project site would be preserved by way of a recorded easement, pursuant to Project Condition Number eight. The Permit Condition would prohibit clearing, grubbing, disturbance of sensitive biological and archaeological resources, except as may be required by the City’s Fire Department for brush management/public safety purposes.

The project’s biological resource mitigation measures, and site planning which minimizes site disturbance through design and the use of retaining walls, have resulted in a project that is consistent with the purpose of the ESLs regulations to protect and preserve ESLs. The project proposes a floor area ratio of 9.5 percent, lot coverage of less than seven percent, and preserves most of the project site (61 percent) from any disturbance. Also, the utilization of five-foot retaining walls within the front building setback area is reasonable mitigation to address the construction constraints presented by the steep slopes. Approval of the Variance would provide

the property vehicular access without extraordinary engineering efforts. Staff recommends approval of the project.

#### ALTERNATIVES

1. Approve Site Development Permit No. 23113 and Variance 149636, with modifications.
2. Deny Site Development Permit No. 23113 and Variance 149636, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,

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Juan Baligad, Development Project Manager

#### Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Location Map
4. Project Data Sheet
5. Project Plans (Hearing Officer only)
6. Retaining Wall Elevation
7. Draft Permit with Conditions
8. Draft Resolution with Findings
9. Ownership Disclosure Statement